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Received & Inspected
SEP 14 2009
FCC Mail Room

WRITER'S E-MAIL:
stan@yanglawgroup.com

September 11, 2009

Via FedEx

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: CC Docket No. 02-6; REQUEST FOR WAIVER TO APPEAL
COMMITMENT ADJUSTMENT DECISION

Dear Ms. Dortch:

This firm represents KCG Enterprises, Inc. ("KCG"), a service provider (SPIN # 143026242) under the USAC E-Rate Program. We are writing to request a waiver of the 60 day period to appeal the USAC's Notification Commitment Adjustment Letter ("CAL") because the USAC sent CALs to a defunct business address for KCG. There were 21 CALs sent, affecting the following Form 471 Application Numbers:

382443, 382757, 383397, 383436, 383548, 383798, 390799, 423416, 472588, 479619, 479917, 482169, 482621, 482797, 482890, and 482964

Attached for your review are samples of the notices that were sent by USAC. The other twenty notices are similarly dated:

1. Notification of Commitment Adjustment Letter dated June 8, 2009 from the USAC to KCG. The letter was addressed to KCG's former business address in Gardena, California.
2. Second Delivery Attempt dated July 28, 2009 from the USAC to KCG's current business address in Torrance, California.
3. Demand Payment Letter dated August 10, 2009 from the USAC, but again addressed to an address that KCG no longer receives mail.

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Marlene H. Dortch, Secretary
Federal Communications Commission
September 11, 2009
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Please be advised that the last E-Rate project in which KCG participated was in 2006. Since then, KCG had no further contact with USAC. In late October, 2006, KCG changed its office address from Gardena to Torrance, California. Since it had no plans to participate further in the E-Rate program, KCG did not advise USAC of its change of address. Moreover, KCG is not aware of a requirement in the E-Rate program that it had to continually update the USAC of any address changes when it is no longer a program participant.

Based on the foregoing, it is clear that USAC's June 8, 2009 Notification of Commitment Adjustment were erroneously sent to a defunct address. The USAC then corrected its mistake by sending the Second Delivery Attempt on July 28, 2009 to the correct address. However, the Second Delivery Attempt letter did not adjust the commencement of the 60 day appeal period to July 28, 2009.

Public policy would be served by allowing KCG the full 60 day period to prepare for and file its appeal upon receipt of proper notice. Accordingly, KCG respectfully requests that it be allowed 60 days from July 28, 2009, i.e. September 28, 2009, to file its appeals with the FCC and that any interest and penalty that may be assessed under the Demand Payment Letters be tolled until KCG's appeals are heard. In the meantime, KCG is proceeding diligently to prepare its appeal documentation to submit to your office by September 28, 2009.

We would appreciate your kind consideration of this request and confirmation at your earliest convenience. Please contact the undersigned if you have any questions. Thank you.

Very truly yours,


Stan K. Yang

Encl.
cc: KCG Enterprises, Inc.



Schools & Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2003: July 01, 2003 - June 30, 2004

June 8, 2009

Hiroyuki Kuroda
KCG Enterprises, Inc.
1406 W. 178th St.
Gardena, CA 90248 1302

Re: SPIN: 143026242
Service Provider Name: KCG Enterprises, Inc.
Form 471 Application Number: 383397
Funding Year: 2003
FCC Registration Number:
Applicant Name: SCHOOL OF SANTA ISABEL
Billed Entity Number: 100545
Applicant Contact Person: JOANNE MARIE

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the required adjustments to the funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.

2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the

- Billed Entity Name,
- Form 471 Application Number,
- Billed Entity Number, and
- FCC Registration Number (FCC RN) from the top of your letter.

3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.

4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.

5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd.
P. O. Box 902
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the applicant detailing the necessary applicant action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or the applicant(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: JOANNE MARIE
SCHOOL OF SANTA ISABEL

Funding Commitment Adjustment Report
Form 471 Application Number: 383397

Funding Request Number:	1056921
Contract Number:	2003-LA-0001
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$40,983.60
Commitment Adjustment Amount:	\$40,983.60
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$40,983.60
Funds to be Recovered from Service Provider:	\$40,983.60

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the applicant's consultant, who was involved in determining the services sought by the applicant and the selection of the applicant's service providers, is associated with a service provider that was selected. The consultant, who assisted in preparing the applications, is an employee of the service provider selected to provide services for this FRN. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Neither the applicant nor the applicant's consultant should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. Since the applicant's consultant has engaged in an improper relationship with a selected service provider, which represents the conflict of interests and compromises the competitive bidding process, the commitment of \$40,983.60 has been rescinded in full and USAC will seek recovery of any disbursed funds from the service provider.



100 545

**SCHOOLS AND LIBRARIES DIVISION
CAL / DPL / RIDF
Second Delivery Attempt**

Date: **July 28, 2009**

To: **Hiroaki Kuroda
KCG Enterprises, Inc.
1880 W. Carson St. Ste F
Torrance, CA 90501**

Important Notice

Enclosed you will find your ***Notification of Commitment Adjustment Letter (CAL)***. The letter was deemed 'un-deliverable' by the U.S. Postal Service and returned to the Schools and Libraries Division's (SLD) Client Operations Department.

This advisory is especially important if you are considering filing an appeal. Appeals must be filed within 60 days of the date on the ***Notification of Commitment Adjustment Letter (CAL)***. In the event that you do submit an appeal it would be advisable to enclose a copy of USAC's decision letter with your appeal correspondence. See the "Appeals Procedure" in the SLD Reference Area of USAC's web site <www.sl.universalservice.org> for more information on appeal deadlines and how to file your appeal.

Sincerely,

Schools and Libraries Division

Toll-Free: (888) 203-8100

Fax Toll-Free: (888) 276-8736



Universal Service Administrative Company

Schools and Libraries Division

Demand Payment Letter

(Funding Year 2003: July 1, 2003 - June 30, 2004)

August 10, 2009

Hiroyuki Kuroda
KCG Enterprises, Inc.
1406 W. 178th St.
Gardena, CA 90248 1302

Re: SPIN:	143026242
Service Provider Name:	KCG Enterprises, Inc.
Form 471 Application Number:	383397
Funding Year:	2003
FCC Registration Number:	
Applicant Name:	SCHOOL OF SANTA ISABEL
Billed Entity Number:	100545
Applicant Contact Person:	JOANNE MARIE
Payment Due By:	9/9/2009

You were recently sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds from you for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is also attached to this letter.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges, and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

If the Universal Service Administrative Company (USAC)) has determined that both the applicant and the service provider are responsible for a Program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If USAC has determined that both the applicant and the service provider are responsible for a Program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If USAC is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with the applicant to determine who

will be repaying the debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Service Provider" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674
Phone: 877-994-7272

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, IL 60661
Phone: 877-994-7272

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete Program information is posted to the SLD section of the USAC website at www.usac.org/sl/. You may also contact the SLD Client Service Bureau by email using the "Submit a Question" link on the SLD website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: JOANNE MARIE
SCHOOL OF SANTA ISABEL

Funding Commitment Adjustment Report
Form 471 Application Number: 383397

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PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING

**Hiroyuki Kuroda
KCG Enterprises, Inc.
1880 W. Carson St. Ste F
Torrance, CA 90501**